

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ARNOLD ARMENTA,

Petitioner,

v.

No. CV 10-806 MCA/LAM

GEORGE TAPIA, et al.,

Respondents.

ORDER ADOPTING PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

THIS MATTER is before the Court on the Magistrate Judge's *Proposed Findings and Recommended Disposition* (*Doc. 10*) (hereinafter "**PF&RD**"), filed on January 6, 2011. Any objections to the **PF&RD** were due by January 24, 2011. On January 13, 2011, Mr. Armenta filed a motion for a 30-day extension of time to file objections to the **PF&RD** (*Doc. 11*), which the Magistrate Judge granted (*Doc. 12*). On February 7, 2011, Mr. Armenta filed a *Motion for Stay and Abeyance [sic]* (*Doc. 13*), wherein he asks for a voluntary dismissal of his case or for a stay and abeyance of the case because he states that he does not have adequate legal support to help him prove his claims. No party filed objections to the **PF&RD** and the deadline for filing objections has passed. No response to Mr. Armenta's motion for stay or abeyance has been filed by Respondents and the time for filing a response has passed. The Court has determined that it will deny Mr. Armenta's motion for a stay of his case because the Court has already considered Mr. Armenta's claims in his Section 2254 motion and Mr. Armenta does not provide an adequate reason to allow him to voluntarily dismiss his claims at this late date. *See* Fed. R. Civ. P. 41(a)(1)(A)-(B) (explaining that Plaintiff can only obtain a voluntary dismissal of his case at this point by stipulation

of all of the parties or “by court order, on terms that the court considers proper”). Moreover, the Court finds that Mr. Armenta was able to adequately present his claims to the Court and does not demonstrate a need for additional legal support for his claims. The Court has also determined that it will adopt the Magistrate Judge’s *Proposed Findings and Recommended Disposition* (Doc. 10), deny Mr. Armenta’s *Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody* (Doc. 1), and dismiss this case with prejudice.

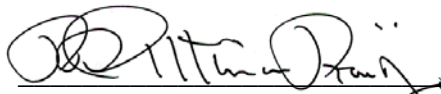
IT IS THEREFORE ORDERED that Mr. Armenta’s *Motion for Stay and Abeyance [sic]* (Doc. 13) is **DENIED**.

IT IS FURTHER ORDERED that the Magistrate Judge’s *Proposed Findings and Recommended Disposition* (Doc. 10) are **ADOPTED** by the Court.

IT IS FURTHER ORDERED that Mr. Armenta’s *Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody* (Doc. 1) is **DENIED**.

IT IS FURTHER ORDERED that this case be **DISMISSED WITH PREJUDICE** and that a final judgment be entered concurrently with this order.

IT IS SO ORDERED.


HONORABLE M. CHRISTINA ARMIÑO
UNITED STATES DISTRICT JUDGE